

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

STEVE MARSHALL, in his official capacity
as Alabama Attorney General, *et al.*,

Defendants.

Civil Action No. 24 Civ. 420
Chief Judge R. David Proctor

**DECLARATION OF BENARD SIMELTON
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Benard Simelton, declare as follows:

1. My name is Benard Simelton, and I am the President of the Alabama State Conference of the NAACP (“Alabama NAACP”). I have served in this role since October 2009. The Alabama NAACP is a Plaintiff in this matter.

2. The Alabama NAACP is the state conference of the National Association for the Advancement of Colored People, Inc. (“NAACP”). The Alabama NAACP is a nonpartisan, membership organization with nearly 5,000 members residing in the State. Members of the Alabama NAACP pay annual dues. Approximately 95% of members identify as Black and most are lawfully registered voters. The Alabama NAACP oversees 35 branches and approximately 10 youth and college units of the NAACP in Alabama (collectively “units”), and all members of local units are members of the Alabama NAACP.

3. The Alabama NAACP's leadership includes the statewide Executive Committee as well as the leadership of local NAACP units throughout Alabama. The Alabama NAACP's work is led by unpaid members, such as my role as President, who staff and carry out the Alabama NAACP's voter engagement and education programming across the state. Paid staff and consultants also assist in carrying out our work.

4. Individual members include Black registered voters who are senior citizens, disabled, students, undereducated, and others who require assistance with the absentee voting process, including their absentee ballot applications. Some Alabama NAACP members also serve as assistors to such voters. The Alabama NAACP has assisted voters with absentee ballot applications and would like to continue doing so in the future.

Alabama NAACP's Mission and Viewpoints

5. The Alabama NAACP is the oldest and most significant civil rights organization in Alabama. The mission of the Alabama NAACP is to ensure the political, educational, social, and economic equality of Black Americans and all other Americans and to eliminate racial discrimination in the democratic process. Our objectives include seeking the enforcement of federal laws and constitutional provisions securing civil rights, as well as educating members and the public about their rights.

6. Voting and encouraging voting are foundational values of the Alabama NAACP. To that end, the Alabama NAACP conducts advocacy to safeguard equal access to the vote, as well as robust voter education and engagement programs to communicate and advance our views about the importance of participating in the political process by voting, including by absentee voting if eligible. The Alabama NAACP's voter education and engagement programs seek to engage Alabamians including those who are Black, elderly, disabled, students, undereducated,

incarcerated, or others who are less likely to be engaged in the political process and need assistance to participate in elections.

Alabama NAACP's Voter Education and Assistance Activities

7. Voter assistance activities, including absentee ballot application assistance, are a core part of the Alabama NAACP's voter education and engagement communications and programming and further our mission of encouraging participation in the democratic process.

8. Volunteers receive training and materials before participating in voter education and engagement events where they will be communicating the Alabama NAACP's pro-voting message by registering people to vote and assisting voters with their absentee ballot applications. Volunteers may also receive branded t-shirts, buttons, or pens as well as snacks/food and water.

9. To communicate our civic engagement message through our voter education and engagement work, the Alabama NAACP organizes in-person and virtual town hall meetings. During these events, we communicate the importance of voting through registering eligible Alabamians and providing information on the voting process, including by answering questions about in-person and absentee voting. Additionally, the Alabama NAACP hosts and participates in voter outreach and education events on college campuses.

10. At town hall meetings or campus events, the Alabama NAACP encourages eligible individuals to vote and has provided absentee ballot applications and assisted voters with completing applications on an as-required basis as part of that encouragement. At in-person town halls and campus events where we assist voters with their absentee ballot applications, we often provide water and snacks/food, and provide branded materials to assistors and other attendees.

11. Local units of the Alabama NAACP also host events where volunteers express our pro-voting message by helping to register Alabamians to vote, sharing voter education materials, and

providing absentee application assistance. For example, the Limestone County Branch of the Alabama NAACP hosted a public Drive-Thru Voter-Registration, Voter Education, and Photo ID event where volunteers assisted voters with registering to vote, updating voter information, absentee applications, and voter restoration. Volunteers are usually given branded t-shirts to wear, so that they are easily identifiable to voters who need their help. Volunteers at such events, which can be several hours long, often are provided snacks/food and water to sustain them. The Alabama NAACP often partners with other nonpartisan organizations, like the League of Women Voters of Alabama, who share our goal of encouraging civic engagement through voter education and engagement initiatives.

12. As part of our pro-voting encouragement and outreach, the Alabama NAACP assists voters in nursing homes and jails, many of whom would not be able to vote without such assistance. To encourage voters in these facilities to vote and vote absentee, the Alabama NAACP has obtained copies of the application form from county election officials and brought the copies to the facilities. We have also provided stamps and envelopes so that absentee ballot applicants can submit their applications in the mail. Because disseminating physical voter education materials to voters is our most effective means of communicating our pro-voting message to these voters and assisting them to successfully apply for an absentee ballot, we also have provided branded materials for these voters to review and share with other voters.

SB 1's Effect on Alabama NAACP's Voter Education and Assistance Activities

13. When SB 1 was being considered by the Alabama Legislature, the Alabama NAACP expressed extreme concern about the criminal penalties imposed for providing assistance to other members and the communities we serve. On February 28, 2024, Norma J. Sanders, a member of the Alabama NAACP, testified before the House Constitution, Campaigns, and Elections

Committee about the critical role absentee voting assistance plays in our voter encouragement and engagement work and our long history of providing assistance to voters. We explained our concern that SB 1 will render criminal the assistance work the Alabama NAACP has historically provided, our most effective means of communicating our pro-absentee voting message.

14. The Alabama NAACP would like to continue our work encouraging eligible voters to vote absentee and help them to do so, but now that it is enacted, SB 1 severely chills the Alabama NAACP's ability to conduct effective absentee voting campaigns and communicate the message that voting should be accessible to all. Due to past targeting of our members in Alabama who assisted absentee voters, the fears of criminal prosecution and liability of current Alabama NAACP volunteers and members are especially acute.

15. Indeed, SB 1 already has restricted the Alabama NAACP's work. In the 2024 primary elections earlier this year, the Alabama NAACP refrained from providing any absentee application assistance, including for residents of nursing homes, because we felt threatened by the uncertainty of SB 1's language and did not want to put our members or anyone else at risk of prosecution.

16. The Alabama NAACP had planned to encourage eligible voters among our members and the communities we serve to participate in the November 2024 general election by requesting an absentee ballot. Due to SB 1, however, The Alabama NAACP has directed all local units to not assist with the absentee application process, due to SB 1's prohibitions. We do not plan to assist voters with the absentee application process for the November 2024 general election, curtailing this expression of our pro-absentee voting message. We will no longer provide absentee applications or assistance in nursing homes, jails, and colleges and universities or at town halls.

17. Instead, as a result of SB 1, the Alabama NAACP must expend time and resources to try to understand what conduct is and is not prohibited under the law and provide local units and

members with guidance regarding the same. Because the Alabama NAACP's voter outreach work is conducted by volunteers, the Alabama NAACP also will need to devote considerably more time and resources into ensuring that our volunteers going forward receive training regarding SB 1's prohibitions to ensure that they do not risk committing a crime. We will need to produce new training and materials for volunteers and produce new voter education materials. The burdens caused by SB 1 also mean the Alabama NAACP will no longer be able to effectively engage in our pro-absentee voting activities. We will be forced to divert resources away from absentee application assistance and towards other forms of voter engagement communications aimed voter education, voter registration, and getting out the vote on Election Day even though we know some voters require absentee voting to participate. SB1 is a severe obstacle for our pro-absentee voting message.

18. Through its vague terms, SB 1 criminalizes a broad swath of mission-related communications and activities. Without defining "gift," "payment," or "third party," SB 1's criminal penalties will severely curtail our get out the vote activities around absentee application assistance. It is unclear if any of the following routine activities would constitute payment or gifts: distributing tokens like t-shirts, buttons, and pens to volunteers who assist with absentee ballot applications; disseminating branded voter education materials to volunteers who provide absentee application assistance; providing volunteers with envelopes and stamps to be given to voters for the purposes of mailing their application; or supplying water and snacks/food for volunteers at events where absentee application assistance take place.

19. Further, it is unclear what kinds of absentee application assistance the Alabama NAACP and our partners could provide because SB 1 does not define terms it uses like "prefill," "distribute," or "submit." The Alabama NAACP regularly assists voters who are elderly and have

a physical impairment or low literacy skills with completing their absentee ballot applications. Under SB 1's vague "prefilling" restriction, it appears we cannot input a voter's information into their absentee application, even when the information is copied from the state's voter file and at the direction of the voter. SB 1's vague prohibition of "distributing" absentee ballot applications suggests that the Alabama NAACP may be prohibited from sending a link to the application to our members or voters who join our mailing list. For certain voters, especially those in nursing homes or jails, SB 1 suggests that the Alabama NAACP may be unable to even place their application in the mailbox, even if the voter has a physical impairment that makes it difficult or impossible for them to deposit the application in the mail themselves.


20. SB 1 also appears to criminalize assistance from volunteers who belong to "third party" organizations which might include organizations like the Alabama NAACP. This detrimentally impacts voters who have relied on our volunteers for help in the absentee voting process. SB 1 will deter our members and constituents from requesting assistance and volunteers from providing it. For the disabled and low literacy voters who depend on our absentee application assistance, SB 1's burdens are an extreme impediment to their ability to receive assistance with voting.

21. I fear that if voters who rely on the Alabama NAACP for assistance do not receive the assistance they need, at least some of these voters will forego voting altogether. Voters have expressed concern about not being able to receive the necessary assistance to vote absentee and the deterrent effect SB 1 will have on them from voting absentee. Members and voters who depend on our assistance have told me that they do not know how they will apply to vote absentee or vote if they cannot receive assistance with their absentee applications.

22. As a result of SB 1, Alabama NAACP has been and will continue to be forced to severely limit our absentee voting activities, including during the particularly critical period leading to the November 5, 2024 general election.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 2, 2024 in Huntsville, Alabama.


Benard Simelton (May 2, 2024 08:28 CDT)

Benard Simelton